

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

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OLC 76-2660

17 SEP 1976

Ms. Nanette Blandin  
Office of Management and Budget  
Washington, D. C. 20503

Dear Ms. Blandin:

To follow-up our conversation earlier this afternoon, I am forwarding to you a proposed amendment to S. 3664 along with explanatory comments. We are considering using these papers in an approach to the Subcommittee on Consumer Protection and Finance of the House Committee on Interstate and Foreign Commerce, which according to our information will be considering this legislation and has in fact scheduled hearings for 21 and 22 September. The bill the Subcommittee will be considering is H. R. 15481, introduced on 8 September by Representative John M. Murphy (D., N. Y.), who chairs the Subcommittee.

We still have not been able to determine how far the House is willing or able to go in enacting legislation along the lines of these bills this session. We have heard, however, that Representative Murphy's Subcommittee is under strong pressure to push this bill through before adjournment. Since, as I mentioned to you over the phone, and as is reflected in the proposed amendment attached hereto, S. 3664 (or H. R. 15481) would present the Agency with serious problems, we would appreciate anything your office can do in terms of providing as definitive an assessment as possible (including action by the Administration, if any) of the prospects this session for the legislation. Absent conclusive evidence that the legislation will not make it through the legislative process before adjournment, we would propose to take steps on the House side to seek an amendment which might take care of the particular problems presented the Agency. I would appreciate your advice Monday morning, if possible.

Sincerely,

[Signature Box]

George M. Cary  
Legislative Counsel

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Enclosure

*P.S. I am encouraged by your report that the Administration is opposed to S 3364 but would still like your advice, in the event that version of the legislation does move in the House*

*Thank you again*



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PROPOSED AMENDMENT TO S. 3664, A BILL "TO AMEND THE SECURITIES EXCHANGE ACT OF 1934 TO REQUIRE ISSUERS OF SECURITIES REGISTERED PURSUANT TO SECTION 12 OF SUCH ACT TO MAINTAIN ACCURATE RECORDS, TO PROHIBIT CERTAIN BRIBES, AND FOR OTHER PURPOSES"

At page 8, add the following new Section 4:

SEC. 4. This act does not apply to cooperation with departments or agencies of the United States in endeavors of interest to the national defense or foreign policy of the United States.

COMMENT: This language is derived from existing regulations of the Securities and Exchange Commission (see 17 C.F.R. 240.0-6, "disclosure detrimental to the national defense or foreign policy"), and is intended to protect classified technology and activities running to the national defense and conduct of national foreign affairs. This is not to be construed as creating a barrier to appropriate inquiry into classified activities and technology by Commissioners of the Securities and Exchange Commission to prevent this exception from misuse or as a device to obscure illegal activities by issuers.

SUGGESTED STATEMENT TO ACCOMPANY AMENDMENT TO S. 3664,  
A BILL "TO AMEND THE SECURITIES EXCHANGE ACT OF 1934..."

The rules and procedures of the Securities and Exchange Commission have long recognized the inappropriateness of requiring the disclosure or filing of classified data affecting national defense and the foreign policy of the United States.

As drafted, this bill could be construed to require the disclosure of classified information.

Further, while this bill addresses the recognized need to declare illegal the use of the funds of public corporations coming under the purview of the Securities and Exchange Acts, to influence foreign governments and officials, or similarly activities by individuals, non-public corporations, or domestic concerns, it may be construed as making illegal any accommodation or assistance provided by such public corporations or domestic concerns to departments or agencies of the United States engaged in legitimate undertakings incident to the national defense or foreign affairs of the United States.

It is felt that these results are not the objective of this bill and hence the amendments proposed are well founded and should be accommodated.

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